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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/446,550	12/22/1999	OLAF ERIK ALEXANDER ISELE	CM-1519Q	2485

27752 7590 01/26/2005

THE PROCTER & GAMBLE COMPANY
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EXAMINER	
ANDERSON, CATHARINE L	
ART UNIT	**PAPER NUMBER**
3761	

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/446,550	ISELE ET AL.	
	Examin r	Art Unit	
	C. Lynne Anderson	3761	

-- The MAILING DATE of this communication app ars on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 November 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner..

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tapp et al. (5,628,737) in view of Jameson et al. (5,169,712).

Dobrin discloses all aspects of the claimed invention with the exception of a particulate filler material imbedded in the polymeric film layer. Dobrin discloses an absorbent article 20, as shown in figure 2, comprising a core region 74, and a chassis region 76 surrounding the core region 74. The article 20 further comprises a laminate 95, as shown in figure 3, which extends into both the core region 74 and the chassis region 76 to form a core backsheet and a chassis backsheet. The laminate 95 comprises a polymeric film layer 26, as described in column 6, lines 42-43, and a fibrous layer 90, as described in column 9, lines 51-52. The laminate 95 is a breathable, unitary layer. The laminate 95 comprises apertures 84 in the chassis region 76, giving the chassis region 76 a higher degree of breathability than the core region 74, and therefore the MVTR value of the core region 74 is lower than that of the chassis region 76.

Tapp discloses a breathable laminate comprising a polymeric film layer and a fibrous layer, as described in column 4, lines 39-42 and 60-61. The

polymeric film layer has a basis weight of greater than 25 gsm, as disclosed in column 16, lines 29-32, and comprises a polymeric matrix and a particulate filler material, as disclosed in column 6, lines 65-68. The breathability of the laminate is enhanced by the formation of cracks around the particulate filler material, as disclosed in column 13, lines 15-18. The laminate is passed through a pair of rolls comprising ridges and grooves which provides a pattern of embossing, or a multiplicity of corrugations to the laminate, as disclosed in column 25, lines 1-14.

With respect to the limitation that at least a portion of the cracks be formed by the laminate being passed through a roll pair, the roll pair comprising engaging ridges and grooves, it is noted that the instant claim is drawn to an article of manufacture rather than a process of forming the article. Therefore, if the structural features of the claimed invention are disclosed in the prior art, the prior art anticipated the instant claim. Tapp discloses a film comprising a particulate filler material, the formation of cracks around the filler material, and a multiplicity of corrugations (i.e. the pattern of embossing described in column 25). Tapp therefore discloses all structural limitations of the claim pertaining to the film.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the laminate of Dobrin using the polymeric film layer of Tapp to increase the breathability of the laminate.

With respect to claim 2, Dobrin discloses the polymeric film layer 26 is wider than the fibrous layer 90, as described in column 10, lines 7-9.

With respect to claims 3 and 4, Tapp discloses a MVTR of at least 500 g/24hr/m^2, as described in column 5, lines 42-43.

With respect to claims 5 and 6, Dobrin discloses all aspects of the claimed invention but remains silent as to how much greater the transmission rate of the chassis region is than the transmission rate of the core region. The chassis region is apertured to increase its breathability, and therefore has a higher transmission rate than the core region.

With respect to claim 7, Tapp discloses the filler material is calcium carbonate, as described in column 6, lines 67-68.

With respect to claim 8, Tapp discloses the polymeric layer has a basis weight of less than 50 gsm, as described in column 16, lines 29-32.

With respect to claim 9, Tapp discloses the fibrous layer has a basis weight of about 10 gsm, as described in column 17, lines 41-43, which in combination with the polymeric layer, would have a basis weight of less than 70 gsm.

With respect to claim 10, Dobrin discloses the fibrous layer 90 is a non-woven web, as described in column 9, line 52.

With respect to claims 11 and 13, Tapp discloses combining the polymeric layer and the fibrous layer by thermobonding and adhesive bonding, as described in column 23, lines 60-64.

With respect to claim 12, Tapp discloses extruding the fibrous layer, as described in column 20, lines 21-23, and the combination of the layers disclosed by Tapp would result in the product as claimed.

With respect to claim 14, Dobrin discloses a baby diaper, as shown in figure 1.

Response to Arguments

In response to the applicant's argument that Tapp fails to disclose the cracks around the filler material being formed by passing the film through a roll pair, the roll pair comprising ridges and grooves, it is noted that the instant claim is drawn to an article of manufacture. The determination of patentability is therefore based on the article itself, regardless of method of manufacture. Tapp discloses all claimed structural features of the filled film, as described in the rejection under 35 U.S.C. 103(a) above. The modification of Dobrin in view of Tapp therefore fulfills the limitations of the claim.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (571) 272-4390. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cla
January 24, 2005

Larry I. Schwartz
Supervisory Patent Examiner
Group 3700